

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

* * *

JEREMY MARCEL CHATMAN.

Case No. 3:22-cv-00287-MMD-CSD

Plaintiff,

ORDER

v.

WASHOE COUNTY DETENTION
CENTER, *et al.*,

Defendants.

12 || I. SUMMARY

13 Pro se Plaintiff Jeremy Marcel Chatman brings this civil-rights action under 42
14 U.S.C. § 1983 to redress constitutional violations that he claims he suffered while
15 incarcerated at the Washoe County Detention Facility. (ECF No. 9.) On September 16,
16 2022, the Court ordered Chatman to file a second amended complaint by November 15,
17 2022. (ECF No. 10 at 9.) The Court warned Chatman that the action could be dismissed
18 if he failed to file a second amended complaint by that deadline. (*Id.*) That deadline
19 expired, and Chatman did not file a second amended complaint, move for an extension,
20 or otherwise respond.

21 || II. DISCUSSION

22 District courts have the inherent power to control their dockets, and “[i]n the
23 exercise of that power, they may impose sanctions including, where appropriate . . .
24 dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831
25 (9th Cir. 1986). A court may dismiss an action based on a party’s failure to obey a court
26 order or comply with local rules. See *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir.
27 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to
28 keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th

1 Cir. 1987) (dismissal for failure to comply with court order). In determining whether to
2 dismiss an action on one of these grounds, the Court must consider: (1) the public's
3 interest in expeditious resolution of litigation; (2) the Court's need to manage its docket;
4 (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of
5 cases on their merits; and (5) the availability of less drastic alternatives. See *In re
6 Phenylpropanolamine Prod. Liab. Litig.*, 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting
7 *Malone*, 833 F.2d at 130).

8 The first two factors, the public's interest in expeditiously resolving this litigation
9 and the Court's interest in managing its docket, weigh in favor of dismissal of Chatman's
10 claims. The third factor, risk of prejudice to defendants, also weighs in favor of dismissal
11 because a presumption of injury arises from the occurrence of unreasonable delay in filing
12 a pleading ordered by the court or prosecuting an action. See *Anderson v. Air West*, 542
13 F.2d 522, 524 (9th Cir. 1976). The fourth factor—the public policy favoring disposition of
14 cases on their merits—is greatly outweighed by the factors favoring dismissal.

15 The fifth factor requires the Court to consider whether less drastic alternatives can
16 be used to correct the party's failure that brought about the Court's need to consider
17 dismissal. See *Yourish v. Cal. Amplifier*, 191 F.3d 983, 992 (9th Cir. 1999) (explaining
18 that considering less drastic alternatives *before* the party has disobeyed a court order
19 does not satisfy this factor); *accord Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th
20 Cir. 2002) (explaining that “the persuasive force of” earlier Ninth Circuit cases that
21 “implicitly accepted pursuit of less drastic alternatives prior to disobedience of the court's
22 order as satisfying this element[,]” i.e., like the “initial granting of leave to amend coupled
23 with the warning of dismissal for failure to comply[,]” have been “eroded” by *Yourish*).
24 Courts “need not exhaust every sanction short of dismissal before finally dismissing a
25 case, but must explore possible and meaningful alternatives.” *Henderson v. Duncan*, 779
26 F.2d 1421, 1424 (9th Cir. 1986). Because this action cannot realistically proceed until and
27 unless Chatman files a second amended complaint, the only alternative is to enter a
28 second order setting another deadline. But the reality of repeating an ignored order is that

1 it often only delays the inevitable and squanders the Court's finite resources. The
2 circumstances here do not indicate that this case will be an exception: there is no hint
3 that Chatman needs additional time or evidence that he did not receive the Court's
4 screening order. Setting another deadline is not a meaningful alternative given these
5 circumstances. So the fifth factor favors dismissal.

6 **III. CONCLUSION**

7 Having thoroughly considered these dismissal factors, the Court finds that they
8 weigh in favor of dismissal.

9 It is therefore ordered that this action is dismissed without prejudice based on
10 Chatman's failure to file a second amended complaint in compliance with the Court's
11 September 16, 2022, order.

12 The Clerk of Court is directed to enter judgment accordingly and close this case.
13 No other documents may be filed in this now-closed case. If Chatman wishes to pursue
14 his claims, he must file a complaint in a new case.

15 DATED THIS 28th Day of November 2022.

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19 MIRANDA M. DU
20 CHIEF UNITED STATES DISTRICT JUDGE
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